IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.605 OF 2003

Sau.Kusum Shantaram Kulkarni ...Appellant

Versus

Smt.Jaya Pranjivan Ameen & Ors. ...Respondents

Shri P.N.Joshi for the Appellant.
Shri Uday Warunjikar for the Respondent No.1.

CORAM : ABHAY S.OKA, J.
DATED : JULY 10, 2007.

P.C.:

1. The Second Appeal is by the original Defendant who has suffered a decree for removal of encroachment. The case of the Respondents-Plaintiffs was that they were the owners of the land bearing Survey No.302/A. The case of the Respondents is that the Appellant was the owner of the adjacent land and the Appellant has encroached upon the property of the Respondents to the extent of 6 Are. The Courts below accepted the report of the survey officer under the Maharashtra Land Revenue Code, 1966. The trial Court passed a decree directing the Appellant to hand over the possession of encroached portion admeasuring 6 Are as shown on maps at Exhibit 57 and 58 prepared by the surveyor.

2. The contention of the Appellant is that these maps prepared by the surveyor were not properly proved.

The submission is that even the Respondents admitted the existence of a brook on the northern side of the disputed land and therefore the map prepared by the surveyor becomes doubtful as the said brook is not shown in the map.

3. The Courts below have accepted the evidence on record which establishes that the Survey Officer fixed the boundaries of the property of the Appellant after notice to all concerned parties and after fixing the boundaries, it was found that there was an encroachment made by the Appellant to the extent of 6 Are. In view of the concurrent findings of fact recorded by the Courts below, no substantial question of law arises. Second Appeal is dismissed.

JUDGE